

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**IDA RENAE NOBLES,
INDIVIDUALLY, K.N., MINOR, BY
AND THROUGH HIS GUARDIAN
KADEIDRA BELL, & L.N., MINOR, BY
AND THROUGH HIS GUARDIAN
MICHELLE DASHAUN SMITH AS
HEIRS AT LAW TO THE ESTATE OF
LANDON NOBLES,
Plaintiffs,**

ADVISORY TO THE COURT

TO THE HONORABLE MARK LANE, UNITED STATES MAGISTRATE JUDGE:

Defendants Richard Egal and Maxwell Johnson file this Advisory to the Court in response to the Plaintiff's June 10, 2022 Advisory to the Court (Doc. 105) as follows:

1. *Pearson v. Callahan*, 555 U.S. 223, 129 S. Ct. 808 172 L.Ed.2d 565 (2009).

Contrary to Plaintiff’s assertions in their Advisory to the Court and at the recent hearing, the Supreme Court in *Pearson* did not hold that qualified immunity is waived if the case proceeds to trial and is submitted to the jury. Rather, the Court in *Pearson* stated that qualified immunity is “effectively lost if a case is *erroneously* permitted to go to trial.” 555 U.S. at 232 (emphasis added).

The Court in *Pearson* held that the Tenth Circuit erred in reversing the District Court’s grant of summary judgment in favor of officers based on qualified immunity. *Id.* The Court did not discuss any waiver of qualified immunity at all. Plaintiff’s strained interpretation of *Pearson* would effectively nullify a party’s right to seek judgment as a matter of law under Rule 50 of the Federal

Rules of Civil Procedure.

2. *Goodman v. Harris County*, 571 F.3d 388 (5th Cir. 2009).

Plaintiffs contend that *Goodman v. Harris County*, 571 F.3d 388 (5th Cir. 2009), where the jury awarded \$5,000,000.00 to the mother of a man shot by police, is the most factually similar case to this one. However, it should be noted that the amount of the jury verdict was not contested in *Harris* and thus was not even addressed by the Fifth Circuit. Thus, there is no discussion or evaluation of the damages evidence in *Goodman* which can be compared to the damages evidence in this case. Plaintiff's argument that had *Goodman* involved more than one plaintiff, the result would have been multiplied by the number of additional plaintiffs is pure speculation and not based on any actual facts discussed in the *Goodman* opinion. Moreover, even if the Court were to consider the *Goodman* case as a comparator for evaluating an appropriate remittitur, \$3,000,000 of the \$5,000,000 verdict in *Goodman* was a punitive damages award, and that portion of the *Goodman* verdict should not be considered when evaluating comparative sums under a remittitur/maximum recovery analysis.

RESPECTFULLY SUBMITTED,

/s/ H. Gray Laird III

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CERTIFICATE OF SERVICE

I certify that, on the 14th day of June, 2022, I served a copy of the foregoing document on all parties, by and through their attorneys of record, in compliance with the Federal Rules of Civil Procedure.

Via CM/ECF:

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